

**REMARKS**

**I. Status of the Claims and Amendments**

After entering this amendment, claims 1-12, and 14 will be pending in this application. Without prejudice or disclaimer, claims 19-22 are cancelled herein. Claims 1, 2 and 4 are amended herein to delete "alkylene." Claim 11 is also amended to add commas after each species in accordance with the Office's suggestion on page 4 of the Office Action. No new matter has been added by these amendments.

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Office, placing claims 1-12, and 14 in condition for allowance, or in better condition for appeal, should the Office dispute the patentability of the claims. Applicants submit that the proposed amendments of claims 1, 2, 4 and 11 do not raise new issues or necessitate the undertaking of any additional search of the art by the Office, since the proposed amendments merely clarify subject matter previously under examination and respond to the Office's objections presented in the Final Office Action. Therefore, this Amendment should allow for immediate action by the Office.

**II. Claim Objections**

The Office objects to claims 5 and 8-10 for "being dependent upon a rejected base claim." Office Action at page 2. In view of the remarks made below with regards to claim 1, from which claims 5 and 8-10 ultimately depend, Applicants believe that claim 1 is in condition for allowance, and, therefore, claims 5 and 8-10 are also allowable. Accordingly, Applicants respectfully request that this objection be withdrawn.

Claims 20-22 are objected to "as drawn to an invention nonelected with traverse." Office Action at page 2. Applicants cancelled claims 20-22 in this Amendment, and thus, the objection over claims 20-22 is now moot.

Claim 4 is objected to because the "formula at the bottom of page 6 is too close to the page number." Office Action at page 3. Applicants moved the formula in the present amendment following the Office's suggestion. Accordingly, Applicants respectfully request that this objection be withdrawn.

Lastly, claim 11 is objected to because "a comma should be placed after each species listed in said claim." Office Action at page 4. Applicants amended claim 11 herein to incorporate a comma between each species as suggested by the Office. Accordingly, Applicants respectfully request that this objection be withdrawn.

### III. Rejections under § 112

#### A. Second paragraph

The Office rejects claims 1-4, 6, 7, 12, 14, and 19 under 35 U.S.C. § 112, second paragraph as allegedly being "indefinite." Office Action at page 4. The Office contends that "the 'alkylene groups' defined as a variable on  $R_3$  is unduly functional." *Id.* Although Applicants respectfully disagree, and believe that "alkylene," as recited in the instant claims is definite and would have been understood by one of ordinary skill in the art as meaning a "linear alkyl" group, solely in an effort to advance prosecution, claims 1, 2 and 4 are amended herein to delete "alkylene." Accordingly, the rejection is now moot, and Applicants respectfully request its withdrawal.

**B. First paragraph**

The Office further rejects claim 2, "as failing to comply with the written description requirement." Office Action at page 5. According to the Office, "[t]he insertion of 'or a pharmaceutically acceptable salt thereof,' into claim 2 is new matter. Applicant should point specifically in the Specification to where there is support for said genus with added limitation to overcome the rejection." *Id.* Applicants respectfully disagree and traverse the rejection for the following reasons.

The specification as-filed discloses "compounds of formula (I)" which includes "pharmaceutically acceptable salts thereof." See Specification as-filed at page 3, lines 38-34. The specification also teaches that "one embodiment of the present invention in the compounds of formula (I)" encompasses compounds wherein R<sub>1</sub> and R<sub>2</sub> are chosen from the groups recited in claim 2. See page 22, line 33 to page 23, line 10. Accordingly, the embodiment disclosed in the specification that corresponds to claim 2 also includes the corresponding pharmaceutically acceptable salts thereof. For at least this reason, the inclusion of "or a pharmaceutically acceptable salt thereof" into claim 2 is not new matter, and is sufficiently supported by the as-filed specification. Accordingly, Applicants respectfully request that this rejection be withdrawn.

Applicants encourage the Examiner to contact the undersigned at 202-408-4265 should the Examiner wish to discuss this rejection in detail.

The Office also rejects claim 19, under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Office Action at page 5. Although Applicants disagree with the rejection, for the sole purpose of advancing prosecution,

Applicants deleted claim 19 in the Amendment herein. Accordingly, the rejection is moot, and Applicants respectfully request that this rejection be withdrawn.

**IV. Conclusion**

Applicants respectfully request that this Amendment be entered by the Examiner, placing claims 1-12, and 14 in condition for allowance. Applicants therefore request the entry of this Amendment, the Examiner's reconsideration of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

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